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EXAMINER

GABLER, PHILIP FRANCIS

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,348

Applicant(s)

BISSON ET AL.

Examiner

Philip Gabler

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the partitioning wall comprising connecting and support elements (of claims 20-23) must be shown or the feature canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6, 17, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 6 and 17, the phrase "ramp-like" renders the claims indefinite because the claims may include elements not actually disclosed, thereby rendering the scope of the claims unascertainable.

5. Regarding claim 24, it is unclear whether the claim is directed to a partitioning system per se or the partitioning system in combination with a drawer. The preamble of claim 13 (upon which 24 depends) indicates the scope of the claim only includes the partitioning system, while claim 24 is drawn to the combination of the partitioning system and a drawer. If the intention is to claim only the partitioning system, claim 24 must be amended to be consistent with claim 13, while if the intention is to claim the combination, the preamble of claim 13 must be amended to be consistent with claim 24.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 5-8, 13, 14, 16-19, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bitel (US Patent Number 4577773). Bitel (Figures 1 and 3) discloses a partitioning/fastening arrangement for a partitioning wall in a drawer comprising: a partitioning wall (12) having a pair of elongated blades (56) in the partitioning wall [Note that the limitation "punched" is a product by process limitation. The product itself does not depend on the process of making it. The limitation "punched" would not be expected to impart distinctive structural characteristics to the device.] and projecting sideways from the partitioning wall adjacent ends thereof at a predetermined height of the partition wall; and opposite connecting elements (42, 44) respectively projecting from the support walls at heights matching with the height of the blades of the partitioning wall when the partitioning wall is in operative position between the support walls (20, 22), the connecting elements having retaining channels (42) in which the ends of the partitioning wall are uprightly slideably engageable, the retaining channels having opposite side locking lips (viewed as A in Exhibit 1) forming guiding slots for passage of a section of the partitioning wall extending between the connecting elements, the blades of the partitioning wall respectively press-fitting against inner sides of the channels behind the locking lips when the partitioning wall is in the operative position.

8. Regarding claims 2 and 14, Bitel further discloses opposite support elements (46) respectively projecting from the support walls at another height with respect to the connecting elements, the support elements respectively having guiding slots (48) in which the ends of the partitioning wall are slideably engageable, the guiding slots of the

Art Unit: 3637

support elements being aligned with the guiding slots of the retaining channels of the connecting elements (see Figure 3).

9. Regarding claims 5 and 16, Bitel further discloses the support elements extend below the connecting elements (see Figure 1).

10. Regarding claims 6 and 17, as best understood, Bitel further discloses the blades have lower ramp-like surfaces (viewed as angles B) facilitating insertion of the blades in the retaining channels.

11. Regarding claims 7 and 18, Bitel further discloses the blades extend directly at the ends of the partitioning wall.

12. Regarding claims 8 and 19, Bitel further discloses a seating flange (58) projecting from a bottom end of the partitioning wall and extending laterally with respect thereto.

13. Regarding claim 24, as best understood, Bitel further discloses the support walls (20, 22) comprise peripheral walls of the drawer (10).

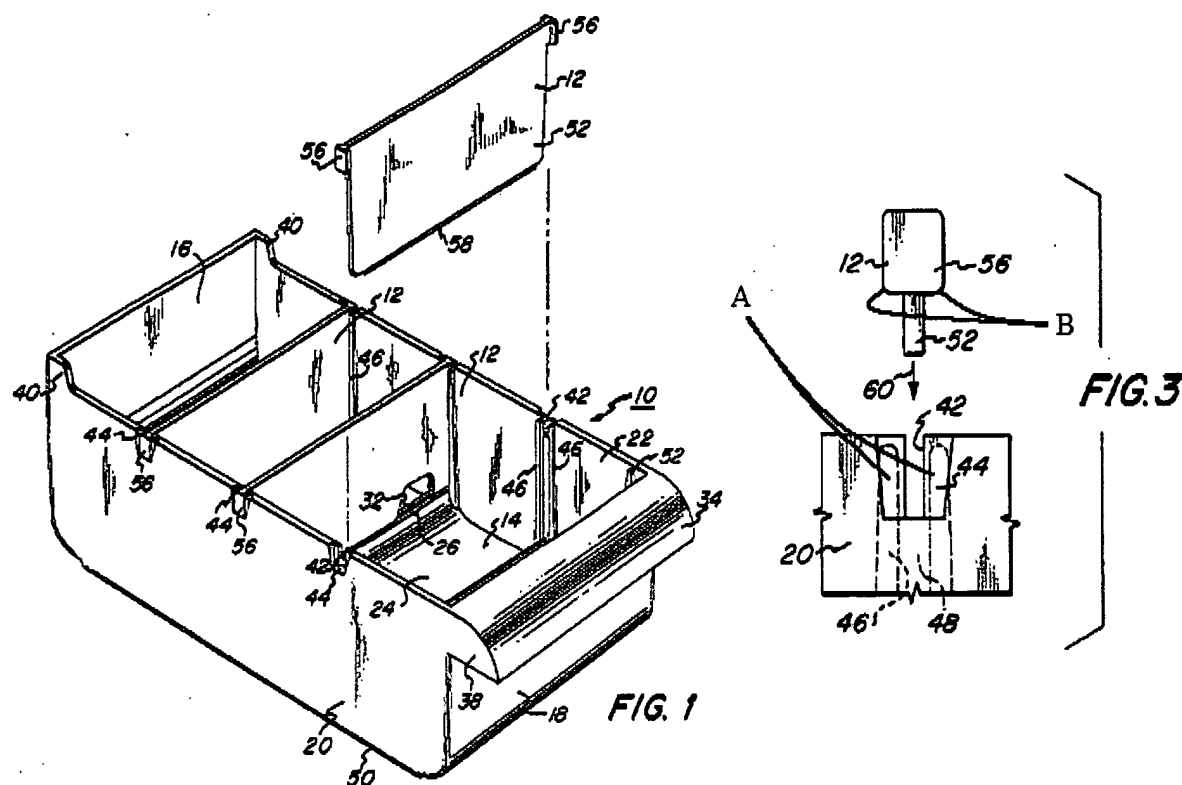


Exhibit 1: Bitel '773 Figures 1 and 3

**Claim Rejections - 35 USC § 103**

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-4 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenstein (Swiss Patent Number 644742) in view of Moore (US Patent Number 3433548). Hollenstein (Figures 1 and 2) discloses a drawer partition system comprising a partitioning wall (4); and opposite connecting elements (23, 27) respectively projecting

Art Unit: 3637

from support walls (32, note that while only one support wall is shown, it is inherent that more would be present in a drawer arrangement) at heights matching with the height of a partitioning wall (4) when the partitioning wall is in operative position between support walls, the connecting elements having retaining channels (27) in which the ends of the partitioning wall are uprightly slideably engageable, the retaining channels having opposite side locking lips (viewed as B in Exhibit 2) forming guiding slots for passage of a section of the partitioning wall extending between the connecting elements.

Hollenstein does not disclose a pair of blades in the partitioning wall. Moore (Figure 1) discloses a partition arrangement for a drawer including elongated blades (17) projecting sideways from a partitioning wall (16) and engaging retaining channels (19). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollenstein's partitioning system to comprise elongated blades on both sides of the partitioning wall as taught by Moore because this arrangement would allow for more control over the fit of the partitions.

16. Regarding claims 2 and 14, Hollenstein further discloses opposite support elements (21, 26) respectively projecting from the support walls at another height with respect to the connecting elements, the support elements respectively having guiding slots (26) in which the ends of the partitioning wall are slideably engageable, the guiding slots of the support elements being aligned with the guiding slots of the retaining channels of the connecting elements (see Figure 2).

17. Regarding claims 3 and 15, Hollenstein further discloses the connecting (23, 27) and support (21, 26) elements comprising longitudinal extrusions (21, 23) made in the



Art Unit: 3637

support walls (32) and projecting on a side thereof, with retaining channels (27) and guiding slots (26) being made in and extending crosswise to the extrusions of respective ones of the connecting and support elements.

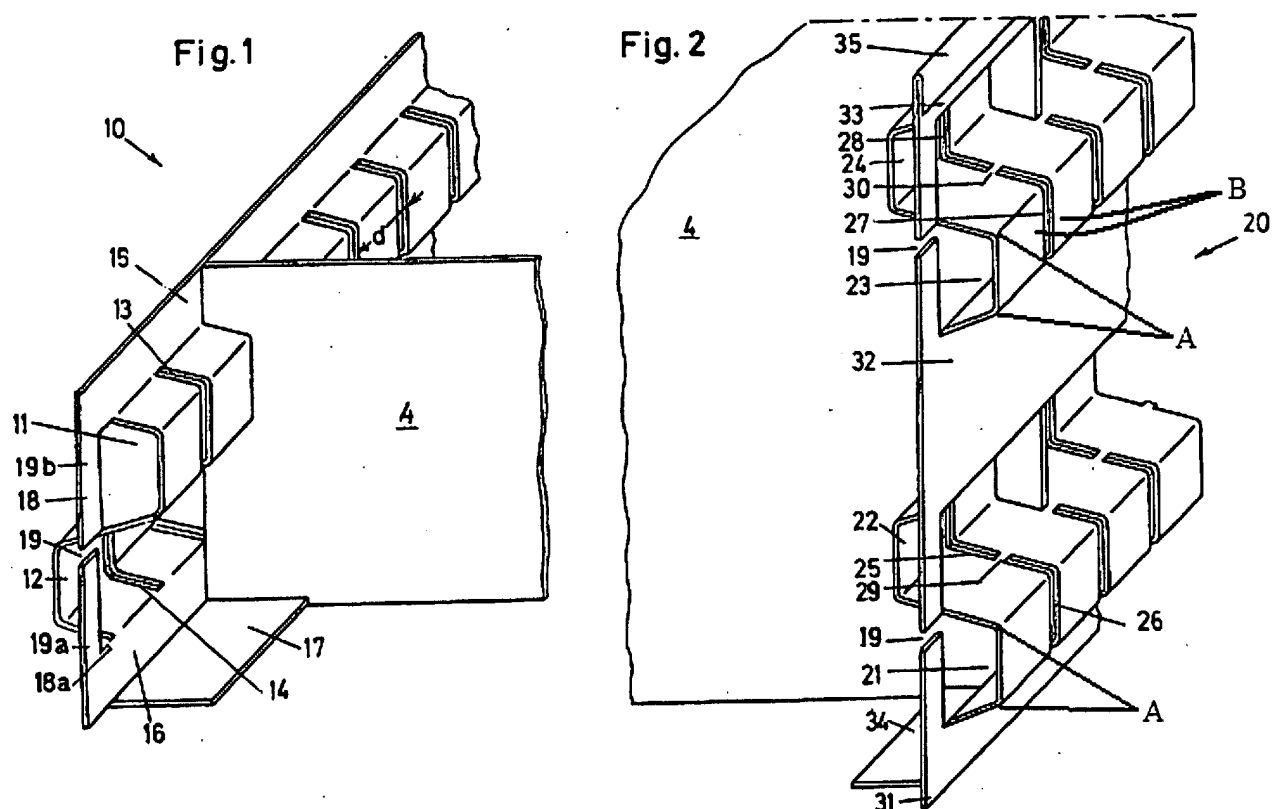
18. Regarding claim 4, Hollenstein further discloses the extrusions have substantially rounded upper and lower surfaces (viewed as curves A in Exhibit 2) for joining the support walls.

19. Regarding claim 9, Hollenstein further discloses an additional connecting element (24) projecting from at least one of the support walls at a height to receive a partitioning wall (4), the additional connecting element being like the connecting element already made in said at least one of the support walls but projecting on a side of said at least one of the support walls opposite to a side on which the connecting element already made in said at least one of the support walls projects (see Figure 2).

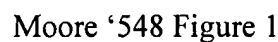
20. Regarding claim 10, Hollenstein further discloses an additional connecting element (24) projecting from at least one of the support walls at a height to receive a partitioning wall (4), and an additional support element (22) projecting from said at least one of the support walls at another height with respect to the additional connecting element, the additional connecting and support elements being respectively like the connecting and support elements (21, 23, 26, 27) already made in said at least one of the support walls but projecting on a side of said at least one of the support walls opposite to a side on which the connecting and support elements already made in said at least one of the support walls project (see Figure 2).

21. Regarding claim 11, Hollenstein further discloses the connecting elements of said at least one of the support walls extend successively one above the other, and the support elements of said at least one of the support walls extend successively one above the other (see Figure 2).

22. Regarding claim 12, Hollenstein further discloses the connecting and support elements comprise longitudinal extrusions made in the support walls and projecting on respective sides thereof, the retaining channels being made in and extending crosswise to the extrusions of the connecting elements, the guiding slots of the support elements being made in and extending crosswise to the extrusions of the support elements.

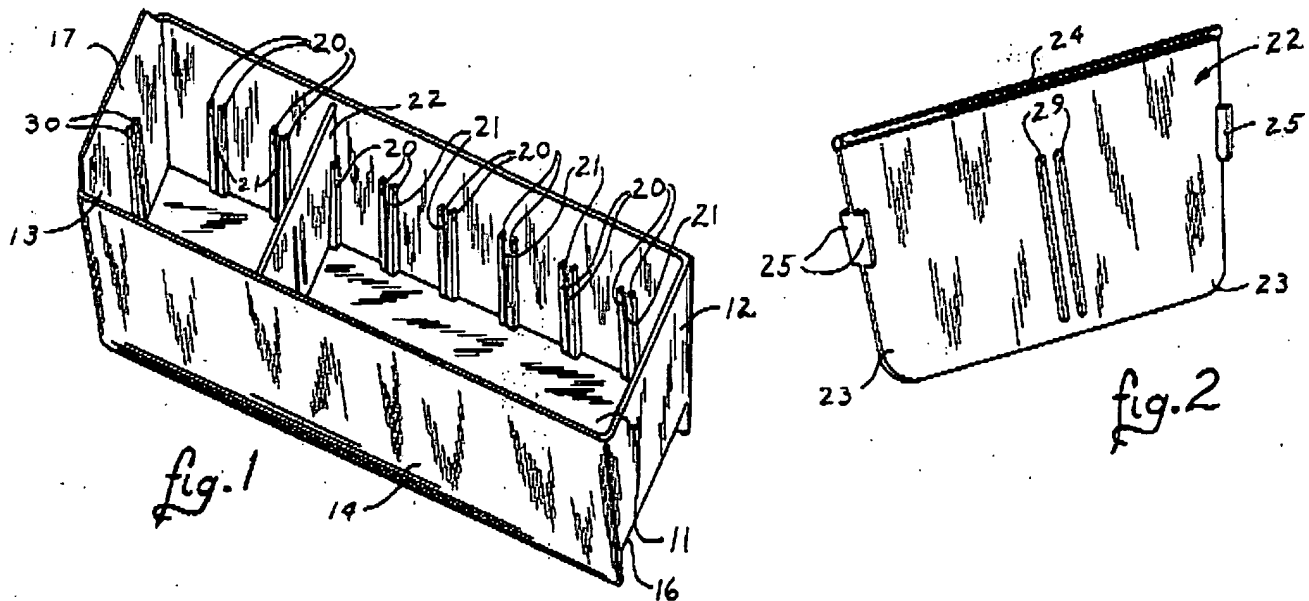


**Exhibit 2:** Hollenstein '742 Figures 1 and 2



23. Claims 20-23, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenstein in view Moore and further in view of Kleinert et al. (US Patent Number 4436215). Hollenstein, when modified by Moore as described above, discloses a partitioning system as recited in claim 14 as well as connecting and support elements as recited in claims 20-23, but does not disclose similar connecting and support elements on a partitioning wall in addition to the support walls. Kleinert (Figures 1 and 2) discloses a partition system for a drawer including a partitioning wall (22) comprising connecting/support elements (29) like the connecting/support elements (30) of his support walls (13, etc.), the partitioning wall capable of forming a support wall for another partitioning wall. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollenstein's partitioning wall, in his partitioning system previously modified by Moore, to include

connecting/support elements on his partitioning wall as taught by Kleinert because this would allow a more partitions to be added to the system and increase its versatility.

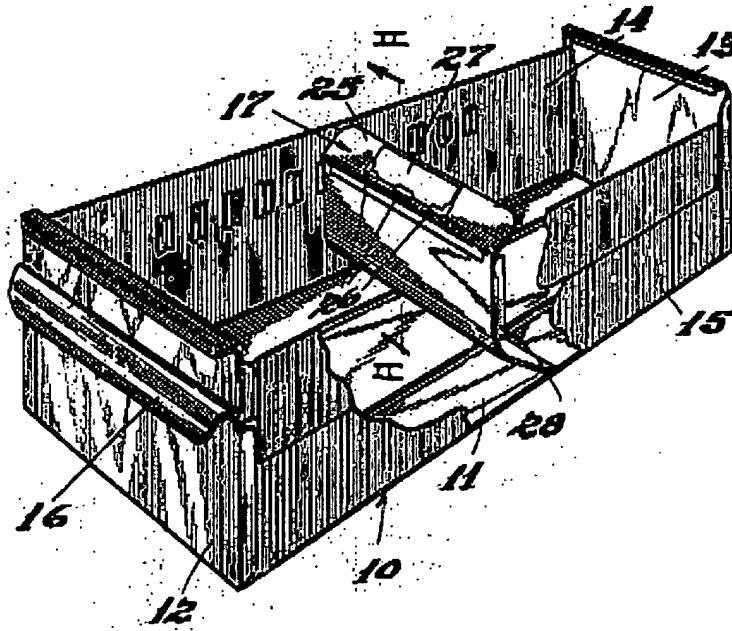


Kleinert et al. '215 Figures 1 and 2

24. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bitel in view of Dunham (US Patent Number 3227504). Bitel discloses a partitioning system as recited in claim 13 but does not include a label holding flange on the partitioning wall. Dunham (Figure 1) discloses a divider system for a drawer (10) including a partitioning wall (17) having a label holding flange (25) slantingly projecting from a top end of the partitioning wall. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bitel's partitioning wall to include a

Art Unit: 3637

label holding flange because this arrangement would provide a convenient mounting area for an indicia bearing label or card to help organize contents of the drawer.



Dunham '504 Figure 1

### **Conclusion**

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The McKay et al. (US Patent Number 5299688), and Wolf et al. (US Patent Number 6443544) references are cited for disclosing various drawer partition systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-

Art Unit: 3637

6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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1/12/2006

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